
EXPEDITED SETTLEMENT OFFER

The Director of the Division of Water Quality (“Director”) extends this Expedited Settlement Offer (“ESO”), to RLW/CLYDE, a Joint Venture, LP (“Permittee”), jointly referred to herein as the “Parties,” pursuant to the Director’s authority granted by the Utah Water Quality Act, Utah Code §§ 19-5-111 and 19-5-115, and Utah Admin. Code R317-1-8 and R317-8-1 *et seq.*

WHEREAS, Permittee operates the project/site named, “SR-194; Lehi 2100 N Freeway” located at 2500 Executive Pkwy, Suite 425, Lehi, Utah 84043 (“Facility”).

WHEREAS, the Director issued the General Permit for Construction Dewatering and Hydrostatic Testing, Permit No. UTG070000 (“CDHT”), authorizing construction dewatering of uncontaminated groundwater or surface water sources due to construction activities, hydrostatic testing of pipelines or other fluids vessels, water used in disinfection of drinking water vessels and other similar discharges into waters of the State consistent with eligibility and Notice of Intent requirements, discharges point(s), effluent limitations, inspection and monitoring requirements, and other conditions set forth in the CDHT.

WHEREAS, Permittee submitted a Notice of Intent and obtained coverage for the Facility under the CDHT and was assigned UPDES Permit No. UTG072095, thereby making Permittee responsible for compliance with the CDHT.

WHEREAS, the Director alleges Permittee violated terms and conditions of the CDHT, as specified in the attached Expedited Settlement Offer Deficiencies Form (“ESODF”). The ESODF is incorporated herein by reference, and identifies violations of applicable CDHT requirements.

WHEREAS, the Director intends to initiate an enforcement action against Permittee pursuant to the Director’s authority under the Utah Water Quality Act, Utah Code §§ 19-5-111 and 19-5-115, and Utah Admin. Code R317-1-8 and R317-8-1 *et seq.*

WHEREAS, an ESO may be used in enforcement actions in lieu of standard penalty calculation when violations are readily identifiable, readily correctable, and do not cause significant harm to human health or the environment. *See* Utah Admin. Code R317-1-8(8.3) and R317-1-8(8.6).

WHEREAS, Permittee, in the interest of compliance and resolution of the matter, and without admitting or denying any wrongdoing, desires to accept this ESO to: (1) verify the alleged deficiencies identified in the ESODF have been corrected; (2) determine the amount of the civil penalty appropriate for the alleged violation(s); and (3) conclude this matter without the necessity of further administrative or judicial proceedings.



NOW, THEREFORE, in consideration of the above Recitals, Permittee agrees and stipulates to the following:

1. Jurisdiction. Permittee admits the jurisdiction of the Director over Permittee and over the subject matter of this action.
2. Penalty Amount. Permittee agrees to pay a penalty of **\$3,720.00**. The Parties agree that this penalty amount is appropriate based on the violations identified in the ESODF.
3. Public Notice and Right to Withdraw. This ESO is subject to a thirty (30) day notice and comment period as required by Utah Admin. Code R317-8-1(1.9). The Parties each reserve the right to withdraw from this ESO if the Director determines that comments received during the notice period necessitate a modification to the terms and conditions of the ESO.
4. Incorporation of ESO into Consent Order. Except as provided in ¶ 3, Permittee stipulates to the issuance of a Consent Order that fully incorporates all terms and conditions of this ESO.
5. Effective Date. The Consent Order is effective on the date of the Director's signature.
6. Final Resolution. Permittee's full satisfaction of the Consent Order shall be a complete and full resolution of Permittee's liability for civil penalties for the violations alleged in the ESODF.
7. Payment of Penalty. Within thirty (30) calendar days of the Effective Date of the Consent Order, Permittee shall submit payment in the amount specified in ¶ 2, using one of the following methods:

- a. CHECK – Payable to the Division of Water Quality. The payment shall be sent to:

Division of Water Quality
PO Box 144870
Salt Lake City, Utah 84114-4870

- b. OTHER – For other available payment options, please contact the Division of Water Quality Finance staff at eqwqfinance@utah.gov
8. Compliance History. The violations described in the ESODF constitute part of Permittee's compliance history where such history is relevant, including any subsequent violations.

9. Compliance with Federal, State and Local Law. Permittee understands and agrees that this ESO and subsequent Consent Order, are not, and cannot be, raised as a defense to any other action to enforce any federal, state or local law.
10. Successors and Assigns. This ESO, upon incorporation into the Consent Order, is binding upon Permittee and any corporate subsidiaries or parents, its officers, directors, employees, successors in interest, and assigns. The undersigned warrants that it is authorized to legally bind its respective principals to this ESO.
11. Severability. If any term or provision of this ESO is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this ESO, or invalidate or render unenforceable such term or provision in any other jurisdiction.
12. Director Authority to Vacate Consent Order for Non-Payment. If, for any reason, Permittee fails to pay the penalty within thirty (30) calendar days of the Effective Date and thereby defaults, then the Director reserves the right to vacate the Consent Order and seek the full penalty amount of \$10,000 per day of violation, in accordance with Utah Code § 19-5-115.
 - a. Prior to vacating the Consent Order, the Director shall provide written notice to Permittee of its default and will provide fourteen (14) calendar days to cure the default by remitting payment. If payment is not received within the fourteen (14) calendar day cure period, the Director is authorized, without providing further written notice to Permittee, to begin an enforcement action for all appropriate relief provided under the Act, including seeking the full penalty amount authorized under the Act.
13. Waiver of Rights. Permittee enters into this ESO knowingly and voluntarily. Permittee understands that by signing this ESO, Permittee acknowledges and agrees that it waives: (1) the opportunity for an administrative hearing pursuant to Utah Code § 19-1-301; (2) the right to contest the finding(s) in the ESODF and the penalty amount specified herein; and (3) the opportunity for administrative and judicial review of the Consent Order issued by the Director to ratify this ESO.
14. Written Report. Permittee agrees to submit a written report to the Division which includes: (1) a written description detailing specific corrective actions taken to attain and continue to be in full compliance with the CDHT permit; and (2) true and correct documentation showing all corrective actions that have been taken.
15. Acceptance of ESO. Permittee's acceptance of this ESO is valid only if, within thirty (30) days of receipt of the ESO, Permittee submits to the Division: (1) a copy of this ESO, signed by a person authorized to bind Permittee; and (2) the written report and documentation identified in ¶ 14. **If Permittee fails to meet these conditions within**



thirty (30) days of receipt, this ESO shall be null and void and the Division may begin alternative enforcement action against Permittee without further written notice.

16. Certification. By signing this ESO, Permittee certifies that: (1) all deficiencies identified in the ESODF have been corrected; and (2) the Facility is currently in full compliance with the terms and provisions of the Permit.

FOR (RLW/CLYDE, A Joint Venture, LP)

By:

Title:

Field engineer

Date:

10-6-20



CONSENT ORDER

More than 30 days have elapsed since the issuance of public notice pursuant to Utah Admin. Code R317-8-1(1.9), and the Director has received no comments concerning this matter.

Having determined that this Expedited Settlement Offer and agreement is authorized by law,
IT IS SO ORDERED:

By: _____
Candice A. Hasenyager, P.E.
Director, Utah Division of Water Quality

Date: _____ (Effective Date)